



Re-Globe Seminar Cycle
in Ravenna, 28.10.2024

Women, Trade and Sustainable Development: The EU Approach (part 2)

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Equality between men and women in EU Treaties

Treaty of Rome (1957) « *men and women shall receive equal pay for equal work*»

Treaty of Lisbon (2009)

Article 2, TEU «*The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, (...) in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and **equality between women and men** prevail*»



Equality between men and women in EU Treaties

Article 3, TEU

(...)

*« 5. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, **the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child**, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter. »*

Article 8, TFEU « In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, **between men and women.** »



Equality between men and women in Charter of Fundamental Rights of the European Union

Article 23 Equality between men and women

Equality between men and women must be ensured in all areas, including employment, work and pay.

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.



Equality between men and women in EU Treaties

Article 21, TEU - GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION

1. The Union's action on the international **scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world:** democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law. (...)
2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:
 - (a) **safeguard its values**, fundamental interests, security, independence and integrity;



Equality between men and women in EU Treaties

Article 21, TEU

d) **foster the sustainable economic, social and environmental development of developing countries**, with the primary aim of eradicating poverty;

Article 207 (1), TFEU

1. The **common commercial policy** shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy **shall be conducted in the context of the principles and objectives of the Union's external action.**



The Council of Europe Convention on preventing and combating violence against women and domestic violence - The Istanbul Convention

The convention was signed on behalf of the EU on 13 June 2017, and the procedure was completed with the deposit of two instruments of approval on 28 June 2023, triggering the entry into force of the convention for the EU on 1 October 2023.

The purposes of this Convention are to:

- a) protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence;**
 - b) contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women;**
- (...)



Article 3 – Definitions

For the purpose of this Convention:

- a “violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;
- b “domestic violence” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim;
- c “gender” shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men;
- d “gender-based violence against women” shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately;
- e “victim” shall mean any natural person who is subject to the conduct specified in points a and b;
- f “women” includes girls under the age of 18.



Sound Directives for Gender Equality

1992 - Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding

2006 - Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

2010 - Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity.

2019 - Directive on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

2022 – Women on Board Directive.

2023 – Directive to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through **pay transparency and enforcement mechanisms.**



Women on Board Directive (2022)

DIRECTIVE (EU) 2022/2381

The directive asked a large number of companies across the EU to reach gender balance in their executive board members by 30 June 2026.

The Directive aims for **gender balance among directors of listed companies**. By mid-2026 every stock-listed company within the European Union needs to have **at least 40% female non-executive directors or have a female representation of executive and non-executive of at least 33%**.

Companies that do not meet the target, must set quantitative objectives, adjust the process for selecting candidates, ensuring non-discrimination and an objective selection process. In addition, non-compliant companies will not be entitled for public contracts and concessions. Moreover, **when 2 candidates are equally qualified, the underrepresented sex must be chosen**. The company must motivate its decision upon request.



The EU Gender Equality Strategy 2020-2025:

The Gender Equality Strategy 2020-2025 identifies **women's economic empowerment as a key field of external action**. It states that the EU will promote **gender equality** in and through its **trade policy**, by gathering sex-disaggregated data to ensure that trade agreements address gender aspects and promoting gender equality through **engagement in the World Trade Organization (WTO)**.





I thank the European Union for generously supporting the WTO's capacity-building programmes which aim to equip policymakers in developing economies, including LDCs, with solid trade-related skills. The objective is to help them widen their countries' trading opportunities so that more people may benefit from sustainable economic development and growth.

Ngozi Okonjo-Iweala
WTO Director-General

[Ngozi Okonjo-Iweala and EU Mission to WTO](#)
[10:03 AM · Mar 8, 2024](#)

EU Gender Action Plan (GAP) III: An Ambitious Agenda for Gender Equality and Women's Empowerment in EU External Action

SDG 5 is one of the three least financed SDGs globally. The EU has made a commitment that at least 85% of all new external actions¹⁹ will have gender equality and women's and girls' empowerment as a significant objective or as a principal objective by 2025. (...)

The EU should continue to promote gender equality through its trade policy. *New trade agreements should include strong provisions on gender equality, including compliance with **relevant ILO and UN Conventions**. Compliance with these conventions should remain a requirement under the new Generalised Scheme of Preferences regulation, which will take effect in 2024. The EU will also continue to include dedicated gender analyses in all ex-ante impact assessments, sustainability impact assessments, and policy reviews linked to trade. (...)*

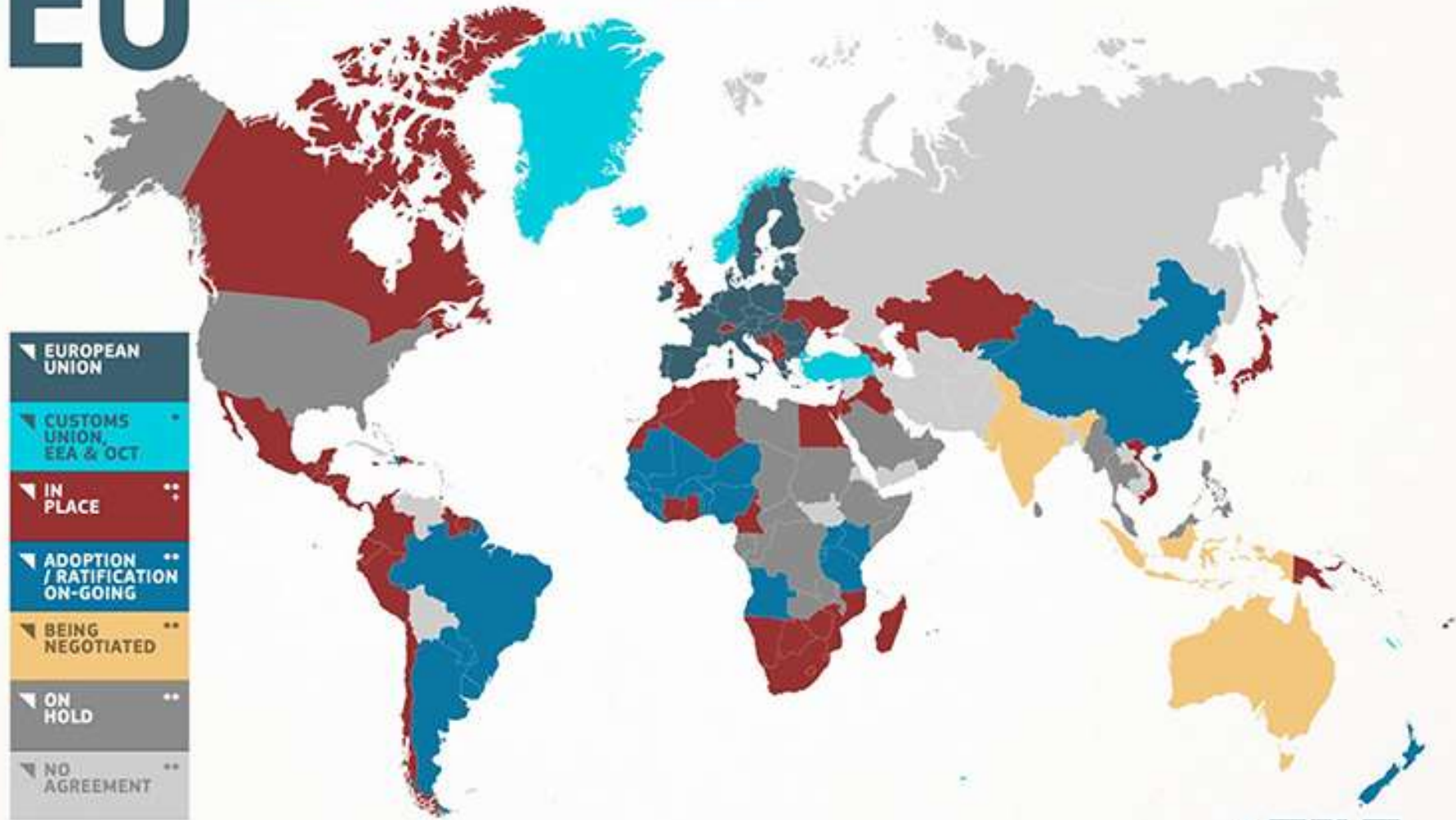


Why the EU Trade Policy is fundamental to support women's empowerment worldwide?



EU trade agreements 2023

Updated 01/02/2023



* European Economic Area (EEA) / Overseas Countries and Territories (OCT).

** Free Trade Agreement (FTA), Deep and Comprehensive Free Trade Agreement (DCFTA), Investment Agreement, Enhanced Partnership and Cooperation Agreement (EPCA), Partnership and Co-operation Agreement with preferential element (PCA).

† The updated agreements with Tunisia, and Eastern and Southern Africa are currently being updated; the updated agreements with Mexico and Chile are under ratification. The DCFTA with Georgia does not apply in South Ossetia and Abkhazia.



The Generalised Scheme of Preferences +

The CEDAW and ILO Conventions on Equal Remuneration (n. 100) and on non discrimination (n. 111) remain a requirement under the Regulation applying the Generalised Scheme of Preferences + for granting trade benefits for low or lower middle-income countries that commit to respect basic human, environment and labour rights principles enshrined in 27 Conventions listed by the EU. The beneficiaries' countries can benefit from **complete duty suspensions for products** across approximately 66% of all EU tariff lines, including sensitive products.

Check all the conventions required by the EU and the monitoring mechanisms at <https://gsphub.eu/about-gsp/gsp-plus>

The text of the Regulation is available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02012R0978-20231128>

- **South Korea** [2011 (provisionally), 2015 (fully)]
- **CETA** [2017 (provisionally)]
- **Japan** [2019]
- **Singapore** [2019]
- **Vietnam** [2020]
- **United Kingdom** [2021]
- **New Zealand [2024]**

EU-South Korea Art. 13.4.2 “recognising full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation and to promoting the development of international trade in a way that is conducive to full and productive employment and decent work for all, including men, **women** and young people.”

Annex 13: (...) **cooperation on trade-related aspects of the ILO Decent Work Agenda**, including on the interlinkages between trade and full and productive employment, labour market adjustment, core labour standards, labour statistics, human resources development and life-long learning, social protection and social inclusion, social dialogue and **gender equality**.”



European Parliament resolution of 13 March 2018 on gender equality in EU trade agreements (2017/2015(INI))

“26. Calls on the Commission and the Council to promote, in trade agreements, the commitment to adopt, maintain and implement gender equality laws, regulations and policies effectively, **including the necessary active measures to promote gender equality and women empowerment at all levels;**

27. Welcomes the commitment by the Commission to ensure that the trade negotiations to modernise the current EU-Chile Association Agreement will include, for the first time in the EU, a specific chapter on gender and trade; stresses the need to be informed of the content of this chapter; **calls on the Commission and the Council to promote and support the inclusion of a specific gender chapter in EU trade and investment agreements, building on existing examples such as the Chile-Uruguay and the Chile-Canada FTAs**, and to ensure that it specifically foresees the commitment to promote gender equality and women empowerment; (...)”



The European Parliament has asked for gender mainstreaming in EU trade agreements to be reinforced, calling for gender issues to be taken into account throughout the texts and during negotiations. Parliament is particularly keen for all trade agreements to include dedicated chapters on gender equality and women's empowerment, with binding and enforceable gender provisions and provisions for proper monitoring and compliance. It has also called for comprehensive ex-ante and ex-post gender analysis of potential and actual impacts, and for gender-balanced representation and gender expertise on trade negotiating teams and the bodies established to advise on, monitor and assess the implementation of trade agreements.



A paradigm shift in women's provisions in EU FTAs and IIAs

EU-New Zealand FTA (negotiations concluded in June 2022, entered into force on 1 May 2024.)

EU-Chile FTA (negotiations concluded in December 2022)

EU-Kenia FTA (negotiations concluded in June 2023)

EU-Angola Sustainable Investment Facilitation Agreement (SIFA) (negotiations concluded in December 2022, entered into force on 1° September 2024)



EU-New Zealand

Specific article on *Trade and Gender Equality* (19.4) inside the TSD Chapter that includes:

- General provisions recognizing the need to advance the 5th SDG and WTO Buenos Aires Declaration.
- International Commitments with the CEDAW and the ILO Conventions related to gender equality and the elimination of discrimination in respect of employment and occupation.”
- Cooperation Activities on trade-related aspects of gender equality including activities for women workers, businesswomen and entrepreneurs: promotion of women's participation, leadership and education, as STEMs and e-commerce; Promotion of financial inclusion, financial literacy and access to trade finance and education.
- Right to regulate on gender equality (19.4.5)
- TSD Committee - entitled to monitor the implementation of the TSD Chapter.
- **TSD chapter subject to the general dispute settlement mechanism (DSM)**, with the possibility to apply as a matter of last resort trade sanctions in case of non-compliance with a panel report that conclude for the violation of multilateral labour standards or agreements or for an action or omission that materially defeats the object and purpose of the Paris Agreement.

EU-Chile (negotiations concluded in December 2022)

- Specific stand-alone chapter on *Trade and Gender Equality* (Chapter 27)
- General provisions reaffirming commitments with the 5th SDG, WTO Buenos Aires Declaration and Beijing Declaration and Platform of Action.
- International Commitments with the CEDAW and “the ILO Conventions related to gender equality and the elimination of discrimination in respect of employment and occupation.”
- specific clause to not weaken or reduce the protection granted under their respective laws aimed at ensuring gender equality or equal opportunities for women and men in order to encourage trade or investment. (“the parties shall not”)

EU-Chile (negotiations concluded in December 2022)

Cooperation Activities on trade-related aspects of gender equality including activities for women mothers, workers, businesswomen and entrepreneurs: promotion of women's participation, leadership and education, as STEAMs and e-commerce; Promotion of financial inclusion, financial literacy and access to trade finance and education (*more extensive list when compared with the EU-New Zealand*).

- Right to regulate. Each Party “shall strive to improve” law and policies on gender equality, DSM of the TSD chapter → Panel of Experts → Recommendations - > obligation of best efforts
- TSD Committee - entitled to monitor the implementation of the TSD Chapter.

EU-Kenia (negotiations concluded in June 2023)

Specific article on *Trade and Gender Equality* (Art. 4) inside the TSD Chapter (Annex 5) that includes:

- General provisions recognizing the need to advance the 5th SDG and WTO Buenos Aires Declaration.
- International Commitments with the CEDAW and “the ILO Conventions related to gender equality and the elimination of discrimination in respect of employment and occupation.”
- No detailed cooperation activities: “*designed to improve the capacity and conditions for women, including workers, businesswomen and entrepreneurs, to access and benefit from the opportunities created by this Agreement.*”
- Right to regulate: “*Each Party shall strive to improve such law and policies, without prejudice to the right of each Party to establish its own scope and levels of protection for equal opportunities for men and women.*”
- TSD chapter fully subject to the main DSM, and so the gender-related provisions are not excluded from the possibility of temporary measures in the event of non-compliance with the Panel's report.

EU-Angola Sustainable Investment Facilitation Agreement (SIFA) entered into force sept. 2024

Investment and gender equality

1. The Parties recognise that inclusive investment policies can contribute to advancing women's economic empowerment and gender equality, in line with Sustainable Development Goal 5 of the UN2030 Agenda. They acknowledge the important contribution by women to economic growth through their participation in economic activity, including investment. The Parties underline their intention to implement this Agreement in a manner that promotes and enhances gender equality.
2. The Parties shall work together bilaterally and in relevant fora, as appropriate, to strengthen their cooperation on investment-related aspects of gender equality policies and measures, including activities designed to improve the capacity and conditions for women, including workers, businesswomen and entrepreneurs, to access and benefit from the opportunities created by this Agreement.

What about Corporate Social Responsibility Standards for Women?

Calvert celebrates the 20th anniversary of its Women's Principles and the strides made by women in the workplace.

OCT 17, 2024 By Gregg Greenberg



Wealth managers may not be aware of it, but October 2024 highlights an important anniversary on Wall Street.

This month marks the 20th anniversary of the Calvert Women's Principles which were a forerunner to the Women's Empowerment Principles (WEP) that the United Nations Global Compact introduced in 2010. The Calvert Women's Principles were the first gender-based investment principles focused exclusively on advancing, protecting, and investing in women in the workforce.

Despite their introduction two decades ago, however, research has shown that women still have a long way to go in their struggle for workplace equality – and are also an unheralded component for investing success.

Women lost C-suite seats in 2023 for the first time since S&P started tracking this data in 2005, dropping to a mere 12 percent of total C-suite seats. There was also a statistically significant decrease in the female to male earnings ratio last year with data showing that women now make about 82 percent of what their male counterparts bring home.

Global Gateway Women Empowerment Principles

<https://www.youtube.com/watch?v=rAN4VKLYNNE&t=9s>

OECD Guidelines for Multinational Enterprises (included in the Gender Chapters of Canada-Israel and Canada-Chile FTA)



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Enforceability of Women's Rights Provisions in FTAs

In summary there are three different approaches: a **cooperative** one, that encourages the parties to solve any dispute arising from the gender provisions through diplomatic means; a **sanction-based** one under which the matter is solved through binding adjudication of a panel of experts or arbitral tribunal; and a **mixed procedure** that firstly attempt to amicably solve the matter through State-to State consultations, and whether consultations fail, the question is submitted to a panel of experts which issues recommendations to be followed by the parties through their *best efforts* but without being backed by any sanction in case of non-compliance.

What about the enforceability of Women's Rights Provisions in FTAs?

Although the increasingly inclusion of gender-related provisions in EU FTAs, there are no standard obligations through prescriptive commands to be fulfilled by the contracting parties and there is no model of dispute settlement mechanism to issue binding decisions in case of non-compliance with gender provisions.



Further reading suggestions:

World Bank Group, author. *Women and Trade : The Role of Trade in Promoting Gender Equality*. 2020. https://www.wto.org/english/res_e/publications_e/women_trade_pub2807_e.htm

Bahri, Amrita, et al. *Trade Policy and Gender Equality*. First edition., Cambridge University Press, 2023. <https://www.cambridge.org/core/books/trade-policy-and-gender-equality/EECD723F67B7555150C926A78A0DB439>

Maes, Eva Luna. “The EU as a Global Gender Actor: Tracing Intersectionality in the European Gender Action Plans for External Relations 2010–2025.” *Social Politics: International Studies in Gender, State & Society*, vol. 31, no. 1, pp. 49–72, doi:10.1093/sp/jxac046





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Thank you very much for your attention!

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Co-funded by
the European Union